28th June 1952]

MR. SPEAKER :—" We have been doing that. If the Leaders of Parties after consultation with each other come to the conclusion that the House can sit at a particular hour, we can sit at that particular hour. We have not changed the Rules. If we have changed the Rules, then it is altogether a different matter. That has not been done. If the Leaders of Parties come to a particular conclusion and request the Speaker to have the sittings at a particular hour, it can be done. So, the hon. Member is not raising a point of order."

IV.—PANEL OF CHAIRMEN.

MR. SPEAKER :—" I have to announce to the House that under rule 15 of the Madras Assembly Rules, I have nominated the following four Members of the Assembly to be the Panel of Chairmen for the second session of the Assembly under the Constitution of India :—

1. Sri S. Ramaswamy Naidu.
2. Mr. W. J. Fernandez.
3. Janab K. M. Seethi.
4. Sri P. Venkatasiviah."

V.—GOVERNMENT MOTIONS.

(1) ELECTION OF FIFTEEN MEMBERS TO THE COMMITTEE OF PRIVILEGES.

THE HON. SRI C. SUBRAMANIAM :—" Sir, I beg to move—

> '*That with reference to rule 156 of the Madras Assembly Rules, this Assembly do proceed on a date to be fixed by the Hon. the Speaker to elect fifteen Members to be Members of the Committee of Privileges for the financial year, 1952–53.*' "

MR. SPEAKER :—" The motion is—

'That with reference to rule 156 of the Madras Assembly Rules, this Assembly do proceed on a date to be fixed by the Hon. the Speaker to elect fifteen Members to be Members of the Committee of Privileges for the financial year 1952–53.' "

SRI M. NARAYANA KURUP :—" Sir, the resolution moved by the Hon. the Leader of the House will be out of order but for certain amendments which have been made to the Rules of Procedure. Article 208 (2) of the Constitution lays down—

> 'Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.'

The Rules obtaining to-day have been framed under this Article of the Constitution. These very Rules lay down a certain procedure if further amendments are to be made to them. Rule 146 (1) under Chapter XVIII of the Rules of Procedure says, 'Unless

the Speaker otherwise directs, not less than ten days' notice of a motion for leave to amend the Rules shall be given and the notice shall be accompanied by a draft of the proposed amendments.' After the leave of the Assembly is granted, the draft amendments must go to a Select Committee and then come before the Assembly. Rule 150 under the same Chapter of the Assembly Rules says, 'When a rule or amendment of a rule is passed by the Assembly, a copy thereof shall be signed by the Speaker and until the Speaker has signed such copy and the fact has been announced by him to the Assembly, the rule or amendment shall not have validity.' The very rules framed by the Hon. Speaker have imposed certain limitations on his own authority to further amend the Rules. He cannot now go beyond the limitations which he has himself imposed upon himself. We have received a circular letter from the Secretary on the 12th June saying that the Hon. Speaker has been pleased to make certain amendments, viz., changing the number of Members of some Committees that have been provided under the Rules of Procedure. My submission is that such amendments adopted by the Speaker are not consistent with the Rules of Procedure which the Hon. Speaker himself has framed for the guidance of this House. Therefore, these amendments are void and inoperative and any resolution brought forward on the basis of those amendments is clearly out of order."

* SRI T. VISWANATHAM :—"I submit that you were pleased to send us some communication. No doubt the Rules have been amended by you. I remember that some time ago, when I was in your room this question cropped up. I think that I submitted then that the Speaker had no right to amend the Rules without bringing forward a motion to that effect before the House. The matter was dropped at that stage. I thought that the Government would bring forward a Motion to amend the Rules so as to increase the number of Members in some of these Committees. I am not objecting to the increase in the number of Members. I am sure that it will be quite acceptable to the whole House. You have done only what was wished by us. In consultation with the Government, you have agreed to the increase in the number of Members. Regarding that we have nothing to say. But, what is troubling us is that it has not been done in the proper way. We must not only do the right thing but do it in a right manner. Our difficulty is this. You have amended the Rules. In this case, it is acceptable to us in substance. But if the same procedure is adopted with regard to other matters it may be that under some pressure . . ."

MR. SPEAKER :—"The hon. Member is not right in saying that the Chair will act under pressure."

* SRI T. VISWANATHAM :—"Sir, I was just adding some words, viz., some pressure of interpretation. (Laughter.) I am not so bad as to say that you are so weak as to be influenced by anybody. (Laughter.) If under some pressure of interpretation you accepted some other amendments in future which may be

quite unacceptable to us, then it will be very difficult for us. All such amendments to Rules must therefore be brought before the House for approval.' That is my only point."

MR. SPEAKER :—" The hon. Member himself suggested the increase in the number of Members."

* SRI T. VISWANATHAM :—" Yes, Sir, I suggested the increase in the number of Members. I thought that necessary amendments with regard to this would be brought before the House. It is a very easy matter for the Government to do, and we would have accepted the amendments. But that has not been done. I believe that the power vested in the Speaker was only for the period of the commencement of the Constitution. At the time of the Constitution coming into force, some Rules had to come into operation. It was not possible to provide for everything at that stage, on January 26, 1950. That is why a transitional provision as it were, was included in the Constitution, and we have Article 208 (2) for this purpose. It should be clearly understood that nowhere it is stated that the Speaker will have powers to amend the Rules from time to time. That is why I say that it is not right to amend the Rules without coming before the Legislature and relying only on the transitional provision in the Constitution with regard to this matter. In substance, we agree with the change. But I submit that this should not form a precedent, and whenever a change in Rules is contemplated, a Motion must come before the House, which alone must take a decision in the matter. I once again repeat that we have absolutely no quarrel with regard to the substance of the change. I only want to impress that nothing should be done which will be detrimental to the privileges and rights of this House. I submit that this should not be taken as a precedent."

* THE HON. SRI C. RAJAGOPALACHARI :—" An important question has incidentally arisen and I wish to point out to the Leader of the Opposition that his interpretation is not correct and that he should not continue under this mistaken impression as to law. The question now discussed is whether the power given to the Speaker to modify the Rules is a continuous power or whether it relates only to the time when the Constitution was made. Now, the very form in which this Article has been framed, by placing the sub-clause relating to the power of the Speaker, at the end shows that the power given to the Speaker is a continuous power and not merely one which ceases after the Constitution has come into force. Article 208 (2) says, 'Until rules are made under clause (1), the rule of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State.' Then follows the clause which says, ' . . . . subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council

as the case may be.' If this clause had been introduced before the phrase ' immediately before the commencement of this Constitution ', the interpretation of the Leader of the Opposition would have been correct. It is only to give a continuous power to the Speaker that this clause has been placed at the end. That is the position. Anyway, it is a question of legal importance and being half-baked lawyers, we may very well leave it to better people."

* SRI T. VISWANATHAM :—" If it was the intention of the Constitution-makers to give the Speaker a continuous power as suggested by the Hon. the Chief Minister, the phrase ' from time to time ' would have been definitely used in the Article. That has not been done and I would like the Chief Minister to pay attention to the absence of this phrase. If that was the intention, the legal draftsmen would definitely have inserted that phrase. Anyway, we do not wish to enter into a legal battle. I shall leave it at that and request that this should not form a precedent in future."

* THE HON. SRI C. RAJAGOPALACHARI :—" The Leader of the Opposition is again basing his argument on a mistaken impression. If the power given to the Speaker was not intended to be continuous, then there was no necessity to put this clause at the end of Article 208 (2). That itself clearly shows that it is a continuous power. So, the position is clear."

MR. SPEAKER :—" I wish to tell the House that our Rules are based on Article 208 (2) of the Constitution. No doubt, our Rules are antiquated and I am going to appoint a Committee of this House to go into this question. In the present instance, I have acted under Article 208 (2). The question is—

' That with reference to rule 156 of the Madras Assembly Rules, this Assembly do proceed on a date to be fixed by the Hon. the Speaker to elect fifteen Members to be Members of the Committee of Privileges for the financial year 1952–53.' "

The motion was carried.

MR. SPEAKER :—" In accordance with the regulations framed by me for the holding of elections according to the principle of proportional representation by means of the single transferable vote, I fix 3 p.m., Thursday, 3rd July 1952, as the time within which nomination papers of candidates for election to the Committee of Privileges should reach the Secretary. Nomination forms can be had on application to the Secretary.

" If the number of candidates nominated exceeds the number of seats to be filled, namely, fifteen, a poll will be taken on a date to be announced in due course."